

STATEMENT FOR THE RECORD

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SAFETY Act Testimony

Good Morning Chairman Rogers, Chairman Reichert, Ranking Members Meek and Pascrell, and distinguished Members of the Subcommittees, it is a pleasure to be with you today to discuss the Department of Homeland Security (DHS) Science and Technology Directorate (S&T Directorate) and in particular our implementation of the SAFETY Act program. I appreciate your invitation to discuss our programmatic accomplishments and my vision of how the Directorate can improve the use of the SAFETY Act to meet the mission needs of our customers – the DHS Components – and the technology providers that will make use of the SAFETY Act to enable them to field technologies that will make the Nation safer. I similarly appreciate the important role that the SAFETY will continue to make in eliminating barriers to full participation by the private sector in developing and fielding new types of anti-terrorism technologies.

I am honored to have this opportunity and privilege to serve with the dedicated men and women, scientists, engineers, and professionals who are working to secure our homeland and defend our freedoms. While the SAFETY Act program is still a work in progress, I am very proud of what has been accomplished in a relatively short time. I have with me today Linda Vasta who is the Acting Director of the Office of SAFETY Act Implementation. I will look to Linda to help respond to any questions of the Committee that call for specific facts and figures about how the program is performing.

The S&T Directorate has a significant role in bringing to bear solutions to the Department's homeland security challenges. During my tenure at the Office of Naval Research, especially after 9-11, I learned first hand the incredible value that a sustained, customer focused basic and applied research program adds to America's ability to bring advanced technology to our (and our allies) asymmetric advantage against the enemies of freedom. It can mean the difference between life and death, victory and defeat. DHS's enabling legislation, the Homeland Security Act of 2002, established a separate Science and Technology Directorate with a well-defined mission in recognition of the importance of robust science and technology programs in the War on Terrorism. I intend to move the S&T Directorate forward by instilling efficient processes, ensuring accountability and empowering people to conduct the important work of the Directorate. The SAFETY Act plays a key role in enabling the fullest possible participation of industry in this effort.

The SAFETY Act (Support Anti-terrorism by Fostering Effective Technologies Act) was enacted as part of the Homeland Security Act of 2002. The mission of the SAFETY Act is to facilitate the development and deployment of qualified anti-terrorism technologies by creating a system of risk and litigation management. These protections apply to a company when the worst happens – an act of terrorism. The SAFETY Act is intended to ensure that the threat of liability does not deter potential manufacturers or sellers of anti-terrorism technologies from creating or providing products and services that could save lives.

The last year has been a time of significant growth and improvement for the SAFETY Act program, building on the S&T Directorate's proactive efforts to develop the program since the Department was created in 2003. The increase in the number and types of technologies extended SAFETY Act protection has been impressive. Since September of 2005, DHS has issued 60 award decisions. As you can see from the chart, over last three years, the growth is strong and continues to climb. We currently have issued SAFETY Act Designations or Designation/Certifications to over 100 companies that are developing Qualified Anti-Terrorism Technologies. While I am encouraged with the trend indicated by these numbers, I believe we can more fully utilize what is an important homeland security tool. However, I wish to report several developments that (i) reveal the Department's commitment to improving upon efforts to date, (ii) indicate that progress is being made, and (iii) should with time greatly increase the number of companies applying for and receiving SAFETY Act protection.

The first improvement is the promulgation and implementation of the SAFETY Act Final Rule, which became effective on July 10, 2006. The terms of the final rule reflect lessons learned and experience gained from our operational experience and provide for a more efficient and user-friendly application process. They also reflect the many comments and suggestions that were made by the private sector and industry experts while the program operated under the Interim Rule.

Perhaps the most dramatic change in the Final Rule is the reduction of the evaluation cycle from 150 days to a maximum of 120 days, while maintaining the same quality level of analysis. Expediting this process is vital for the companies who cannot wait months for decisions to be made when their capital and intellectual property is on the line. Our hope is that our elimination of 30 days from the review cycle sends an important signal to the private sector that we are committed to their success and improves their overall experience with the application process. Moreover, I expect that decisions on certain applications will be made in time frames far shorter than 120 days, and assure you that, in any event, the 120 day regulatory cycle will be strictly adhered to. Since coming on board, I have learned that the Department's track record in processing applications within the SAFETY Act's regulatory deadlines is troubling. I have learned that, through the practice of issuing numerous "requests for information," in some cases the Department might have caused unnecessary delay and imposed undue burdens on applicants. This is not consistent with my goals for a full service, efficient, and customer oriented organization. Going forward, the Department will strictly adhere to regulatory deadlines and will ensure that only information necessary to reach a decision on an application will be required. Time is of the essence. Furthermore, I will, while preserving the integrity of the technical review process, continue to look for ways to improve the program's level of efficiency and further reduce the SAFETY Act application evaluation cycle.

Already, the Office of Safety Act Implementation (OSAI) and the Office of the Chief Procurement Officer are working together to align the SAFETY Act application review process more closely and effectively with the procurement processes within DHS and throughout the Federal Government. We have briefed members of the DHS acquisition community to facilitate the integration of these two processes. We are also streamlining

our review processes and are working to eliminate duplicative technical reviews of candidate technologies that are the subject of government procurements. We take very seriously our responsibility to ensure that technologies receiving SAFETY Act protections are effective in helping to protect America; however, if a thorough evaluation of a technology has already been conducted as part of the government's RDT&E or acquisition process and particular technologies found to be effective, we are comfortable eliminating duplicate technical reviews and "fast tracking" applications for SAFETY Act protections to coincide with government acquisition schedules. We are doing this now with our current initiative to seek technologies to detect liquid explosives. The Department did this effectively last November with regard to the procurement by the Domestic Nuclear Detection Office (DNDO) of Advanced Spectroscopic Portal technology. Other examples include coordinating with the Transportation and Security Administration (TSA) on private airport screening services. We recently worked with procurement and other officials to integrate SAFETY Act into planning and acquisition activities associated with the Secure Border Initiative, US-VISIT, and the Registered Traveler program.

The Final Rule also establishes that some of the protections of the SAFETY Act can be afforded to qualified anti-terrorism technologies that are undergoing developmental testing and evaluation. By creating "Developmental Testing and Evaluation Designations," the Final Rule encourages investment in promising technologies that could serve as an important homeland security resource.

Another major enhancement to the SAFETY Act program is the new Application Kit which was released on August 14, 2006. The SAFETY Act program is in its third year, and experience in administering the program has demonstrated that procedural processes built to administer the Act could be improved. The Department recognized that the initial SAFETY Act Application Kit was overly burdensome and the application process could be streamlined and made less bureaucratic. The Department has refined the SAFETY Act Application Kit and the application process more generally to reduce burdens and to focus more precisely on collecting the information necessary for the review of a particular anti-terrorism technology.

The Department recognizes that each SAFETY Act application is different. Our aim is to have an interactive and flexible application process and to focus the SAFETY Act Application Kit on soliciting essential information that may be supplemented as necessary on a case by case basis. And as part of the new Application Kit, the Office of SAFETY Act Implementation will be proactively engaging applicants much earlier in the process. The new Application Kit is designed to be more "user-friendly," and the Department, through a Notice in the Federal Register dated August 17, 2006, is inviting comments and suggestions for how we may further refine the kit to make the SAFETY Act application process even more effective.

With the Final Rule and new Application Kit in place, the SAFETY Act Office will be redoubling their efforts to encourage an increasing number of SAFETY Act applications. To this end, continuing the proactive outreach that began with the S&T Directorate's first

SAFETY Act presentations in five cities in the Fall of 2003, we are participating in or presenting at a number of homeland security-related conferences to spread the word to individual companies. We are also beginning a comprehensive system of outreach to high-tech trade associations, technology incubators, relevant members of the legal community, and leading business associations. Our outreach will involve one-on-one meetings, participation in industry events, articles in industry publications and greater information dissemination via the SAFETY Act website, www.safetyact.gov.

For example, there are dozens of high tech trade associations in the DC area representing thousands of technology companies. By working with them to spread the word about the SAFETY Act, we can dramatically increase our number of applicants and thereby find valuable anti-terrorism technologies for use by DHS. Personal briefings with members, newsletter articles and targeted events as well as field visits and “town hall” meetings allow us to inform more companies about the protections available to them as we continue to fight the war on terror. This opportunity also exists across the country with state, county and city technology associations. Building a relationship with them will help facilitate our grassroots outreach. Successful utilization of the SAFETY Act program truly depends on effective public-private partnerships and we will work to make the most of this opportunity.

I believe the best way to judge the progress we are making is by the statements of the companies that have received SAFETY Act awards. We have worked diligently to listen to the feedback from private industry and their comments speak volumes about the quality of the work we are doing. In the June 19th issue of *Government Security News* magazine, a number of companies issued statements about the benefits of the Act and how it has impacted their business.

- Wackenhut Chairman and CEO Gary Sanders stated, “By granting these much sought-after awards, the DHS has validated these important processes and declared that Wackenhut’s services are designed to envision and defend against possible terrorist scenarios; deny terrorists access to secure facilities; and, to respond to terrorist related security breaches.”
- Mitigation Technologies Managing Member Craig Schwartz stated, “Mitigation Technologies continues to develop and deploy innovative life-saving products while seeking added benefits like DHS’ SAFETY Act coverage to provide safety, comfort and peace of mind for citizens worldwide.”
- Smith Detection Americas President Cherif Rizkalla stated, “SAFETY Act certification provides our customers with real assurance the Hi-SCAN 7555i and the Sentinel II are effective, reliable and safe anti-terrorism technologies . . . We plan to obtain SAFETY Act approval for additional Smiths products in the near future.”
- Boeing’s Vice President of Advanced Homeland Security, John Stammreich stated “to us, the SAFETY Act is vital....we’re really encouraged how far the government has come in the last 18 months to two years....Boeing is feeling very bullish about the SAFETY Act environment.”

In conclusion, the SAFETY Act is a vital tool for our government to remove barriers to full industry participation in finding new and unique technologies to combat an evolving enemy. Technological and scientific innovation continues to be a major factor in our Nation's success, and the SAFETY Act is one means by which we can help leverage that strength in our War on Terrorism. The SAFETY Act can, when used to its full potential, create market incentives for industry to increasingly invest in measures to enhance our homeland security capacity. While more needs to be done, I am pleased to report there are over 100 SAFETY Act protected technologies that we have enabled to be deployed around the country, and over 40 additional technologies under review. The fact that we have a growing number of applications in the pipeline is testament to the fact that this program is becoming increasingly credible and important to the business and government acquisition community. This fiscal year alone OSAI has processed and issued twice as many Designations and Certifications for Qualified Anti-terrorism Technologies as in previous years. Moreover, DHS has set the stage for even greater progress and accomplishment for implementation of the SAFETY Act. The SAFETY Act will continue to provide needed protection to the most dynamic creators of anti-terrorism technologies, while also safeguarding the American public. Thank you for your time and I look forward to your questions.